

Exhibit A

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

MASTERFILE CORPORATION,

Plaintiff,

vs.

MARTIN GALE, d/b/a THE GALE
TEAM; LAURIE GALE, d/b/a THE
GALE TEAM; and GALE SERVICES,
P.C., d/b/a THE GALE TEAM,

Defendants.

**DEFENDANTS' REPONSES TO
MASTERFILE CORPORATION'S
FIRST SET OF DISCOVERY
REQUESTS**

Case No. 2:09-CV-00966

Judge Dee Benson

Defendants Martin Gale, d/b/a The Gale Team; Laurie Gale, d/b/a The Gale Team; and Gale Services, P.C., d/b/a The Gale Team ("The Gale Team"), by and through its attorneys of record, hereby responds to the request for admissions and request for documents portions of Masterfile Corporation's ("Masterfile") First Set of Discovery Requests as follows:

GENERAL OBJECTIONS

1. The Gale Team objects to Masterfile's discovery requests to the extent that they impose a burden or obligation upon them not required by the Federal Rules of Civil Procedure.

2. The Gale Team objects to Masterfile's discovery requests to the extent that they seek information protected against disclosure by the attorney/client privilege, the work product doctrine, or any other privilege or confidentiality provided for by law. The Gale Team construes each discovery request not to seek any such objectionable information.

3. The Gale Team objects to Masterfile's discovery requests to the extent that they ask for information that is outside of the possession or control of The Gale Team, that is in Masterfile's possession, that is substantially as easily available to Masterfile as to The Gale Team, that is publicly available, or that is otherwise available to Masterfile Corporation.

4. The Gale Team objects to Masterfile's discovery requests to the extent that they are overly broad, unduly burdensome, or not reasonably calculated to lead to the discovery of admissible evidence.

5. The Gale Team objects to Masterfile's discovery requests to the extent that they call for speculation.

6. The Gale Team specifically reserves the right to introduce at trial all evidence including evidence which is presently known to them but not deemed material or not known to them, and/or which is discovered subsequent to the date of these Responses, and reserves the right to amend these Responses without motion at any time. All of the Responses contained herein are based only on the information and documents presently available to The Gale Team at this stage in the litigation and discovery process. The Gale Team anticipates that further discovery, independent investigation, legal research and analysis will supply additional facts, add meaning to known facts, and establish additional and different factual and legal conclusions, all

of which may lead to additions to, changes in, and/or variations from the statements set forth below.

Each of the foregoing general objections is incorporated into each response below.

FIRST SET OF REQUESTS FOR ADMISSION

REQUEST NO. 1: Admit that YOU own the WEBSITE.

RESPONSE: Defendants object to this Request to the extent that the term “own” is ambiguous. Defendants further object to this Request to the extent that it is not limited by duration. Defendants admit that Gale Services P.C. caused the domain www.galeteam.com to be registered, and that Gale Services P.C. causes the website at the domain www.galeteam.com to be live and maintained. Except as expressly admitted herein, Defendants deny the allegations of Request No. 1.

REQUEST NO. 2: Admit that YOU or YOUR AGENT designed the WEBSITE.

RESPONSE: Deny.

REQUEST NO. 3: Admit that YOU have the ability to control the content, INCLUDING the images, used on the WEBSITE.

RESPONSE: Defendants object to this Request to the extent it assumes facts not in evidence. Defendants further object to this Request to the extent that it is not limited by duration. Subject to and without waiving the foregoing objections, Defendants answer that they do not have the ability control the content of the Real Estate Power Tools presentation. Defendants admit that they generally have the ability to control the content of the website, subject to the limitations imposed by Real Estate Power Tools and other limitations. Except as expressly admitted herein, Defendants deny the allegations of Request No. 3.

REQUEST NO. 4: Admit that YOU did not enter into a written design agreement with any PERSON to design YOUR WEBSITE.

RESPONSE: Defendants object to this Request to the extent it assumes facts not in evidence. Defendants object to this Request to the extent that the terms “design agreement” and “to design” are ambiguous. Defendants further object to this Request to the extent that it is not limited by duration. Subject to and without waiving the foregoing, Defendants answer that they did not enter into a written design agreement to commission the design of content of the Real Estate Power Tools presentation. Except as expressly admitted herein, Defendants deny the allegations of Request No. 4.

REQUEST NO. 5: Admit that Masterfile owns the copyrights in the IMAGES.

RESPONSE: Defendants object to this Request to the extent that it seeks information which is not in Defendants’ possession or control. After making a reasonable inquiry, Defendants lack sufficient knowledge or information to admit or deny the allegations of Request No. 5. Except as expressly admitted herein, Defendants deny the allegations of Request No. 5.

REQUEST NO. 6: Admit that the IMAGES have appeared on YOUR WEBSITE.

RESPONSE: After making a reasonable inquiry, Defendants lack sufficient knowledge or information to more fully admit or deny the allegations of Request No. 6. Except as expressly admitted herein, Defendants deny the allegations of Request No. 6.

REQUEST NO. 7: Admit that YOU did not have a license from Masterfile to use the IMAGES.

RESPONSE: Defendants object to this Request to the extent the term “YOU” has been defined to include persons who have information which is not in Defendants’ possession or

control. Subject to and without waiving the foregoing objections, Defendants answer that Defendants have not entered a licensing agreement with Masterfile to use the IMAGES. Except as expressly admitted herein, Defendants deny the allegations of Request No. 7.

REQUEST NO. 8: Admit that the PERSON who designed YOUR WEBSITE did not obtain a license(s) from Masterfile to use the IMAGES.

RESPONSE: Defendants object to this Request to the extent that it seeks information which is not in Defendants' possession or control. After making a reasonable inquiry, Defendants lack sufficient knowledge or information to admit or deny the allegations of Request No. 8. Except as expressly admitted herein, Defendants deny the allegations of Request No. 8.

REQUEST NO. 9: Admit that, before the IMAGES appeared on YOUR WEBSITE, YOU did not request documentation from the PERSON who designed YOUR WEBSITE confirming that YOU had a license(s) to use the IMAGES on YOUR WEBSITE.

RESPONSE: Defendants object to this Request to the extent that it assumes facts not in evidence. In addition, Defendants object to this Request to the extent the term "YOU" has been defined to include persons who have information which is not in Defendants' possession or control. Defendants further object to this Request to the extent the term "PERSON who designed YOUR WEBSITE" is ambiguous. Subject to and without waiving the foregoing objections, Defendants incorporate their response to Request No. 4 and answer that they did not hire a person to design the content of the Real Estate Power Tools software. Except as expressly admitted herein, Defendants deny the allegations of Request No. 7.

FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST NO. 1: Produce all DOCUMENTS supporting YOUR claim that YOU did not infringe Masterfile's copyright in the IMAGES.

RESPONSE: Defendants object to this request to the extent the term "YOU" is defined to include persons who are not within Defendants' control. Subject to and without waiving the foregoing objections, Defendants will provide all properly discoverable responsive documents in their possession and control at a mutually convenient time and location.

REQUEST NO. 2: Produce all DOCUMENTS supporting YOUR claim that YOU had a license to use the IMAGES, as stated in Paragraph 8 of the Affirmative Defenses section in YOUR ANSWER.

RESPONSE: Subject to and without waiving their general objections, above, Defendants will provide all properly discoverable responsive documents in their possession and control at a mutually convenient time and location.

REQUEST NO. 3: Produce all DOCUMENTS relating to the design agreement for the WEBSITE that YOU referenced in YOUR Amended Initial Disclosures.

RESPONSE: Defendants object to this Request to the extent it expresses or implies that Defendants entered a design agreement. Subject to and without waiving the foregoing objections, Defendants respond that they do not have any documents in their possession or control responsive to this request.

REQUEST NO. 4: Produce all DOCUMENTS EVIDENCING YOUR COMMUNICATIONS with representatives of Real Estate Power Tools, Inc. relating to the WEBSITE and/or the IMAGES.

RESPONSE: Subject to and without waiving their general objections, above, Defendants will provide all properly discoverable responsive documents in their possession and control at a mutually convenient time and location.

DATED this 19th day of April, 2010.

JONES WALDO HOLBROOK & McDONOUGH PC

/s/ Billie J. Siddoway

By: Andrew G. Deiss
Billie J. Siddoway
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 19th day of April, 2010, a true and correct copy of the foregoing was cause to be delivered by electronic mail to the following:

Wesley D. Felix
Nicole A. Skolout
HOWREY LLP
170 South Main Street, Suite 400
Salt Lake City, Utah 84101

/s/ Billie J. Siddoway